



CITY COUNCIL AGENDA

SEPTEMBER 11, 2007

SYNOPSIS

PETE CONSTANT
FORREST WILLIAMS
SAM LICCARDO
KANSEN CHU
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO
MADISON P. NGUYEN
DAVID D CORTESE, VICE MAYOR
JUDY CHIRCO
NANCY PYLE

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Community & Economic Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Neighborhood Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation & Aviation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Reed will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas and Staff Reports for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.asp. Council Meetings are televised live and rebroadcast on Channel 26.

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-1260 or (408) 294-9337 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- ☐ **Call to Order and Roll Call**
9:31 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Members: None.

1:32 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: None.

7:02 p.m. - Public Hearings, Council Chambers, City Hall
Absent Council Members: Cortese. (Excused)
- ☐ **Invocation (District 8)**
Fire Chief Darryl Von Raesfeld, Chief of Police Robert Davis, the Fire Department Chaplains and the Honor Guards presented a special memorial in honor of the victims of September 11, 2001.
- ☐ **Pledge of Allegiance**
The Honor Guards and Mayor Reed led the Pledge of Allegiance.
- ☐ **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved, with Item 1.4 dropped.
- ☐ **Closed Session Report**

City Attorney Doyle disclosed the following Closed Session action of September 11, 2007:

(Continued on the next page)

CLOSED SESSION REPORT (Cont'd.)

A. Public Employee Appointment Pursuant to Government Code Section 54957:

1. Title: Interim City Auditor
Office of the City Auditor

Name: Steven Hendrickson

Council Vote: Ayes: Campos, Chirco, Chu, Constant, Cortese, Liccardo,
Nguyen, Oliverio, Pyle, Williams; Reed.

Noes: None.

Disqualified: None.

Absent: None.

Vacant: None.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to the Almaden Library and Community Center for being awarded the 2006 California Park and Recreation Society Achievement Award. (Parks, Recreation and Neighborhood Services)
Mayor Reed and Council Member Pyle recognized the Almaden Library and Community Center for being awarded the 2006 California Park and Recreation Society Achievement Award.
- 1.2 Presentation of a commendation to the San José Youth Symphony for their successful completion of their 55th season, which concluded with a tour of Eastern Europe. (Williams/Pyle)
(Rules Committee referral 08/29/07)
Heard in the evening.
Mayor Reed and Council Members Williams and Pyle recognized and commended the San José Youth Symphony for their successes.
- 1.3 Presentation of commendations to the four recipients of the 2007 HACE scholarships: Pamela Nicole Bailey, Tirza Maria Banuelos, Diego Lorenzo Ortiz, and Jennifer Andrion. (Campos)
(Rules Committee referral 9/5/07)
Heard in the evening.
Mayor Reed and Council Member Campos recognized and commended Pamela Nicole Bailey, Tirza Maria Banuelos, Diego Lorenzo Ortiz, and Jennifer Andrion for being recipients of the 2007 HACE scholarships.

1. CEREMONIAL ITEMS

- 1.4 Presentation of a proclamation in celebration of Mexican Independence Day on September 16, 2007. (Campos)
(Rules Committee referral 9/5/07)
Dropped per Orders of the Day.
- 1.5 Presentation of a commendation to Grainger Corporation for their contributions to the community and economic vitality of the City of San José. (Mayor/Chu)
(Rules Committee referral 9/5/07)
Mayor Reed and Council Member Chu recognized and commended the Grainger Corporation for their contributions to the community and economic vitality of the City of San José.
- 1.6 Presentation of an award to Linda Crabill, Community Relations Manager for the City of San José's Department of Transportation, from the California Association of Public Information Officials for receipt of the Paul B. Clark Award, a lifetime achievement award that recognizes outstanding contributions in the field of public information. (City Manager/Transportation)
(Rules Committee referral 9/5/07)
The California Association of Public Information Officials recognized Ms. Linda Crabill, Community Relations Manager for the City of San José's Department of Transportation for receipt of the Paul B. Clark Award.

2. CONSENT CALENDAR

- 2.1 **Approval of Minutes.**
There were none.
- 2.2 **Final adoption of ordinances.**

Recommendation: Final adoption of ordinances.

- (a) ORD NO. 28107 – Rezoning certain real property situated on the south side of Alum Rock Avenue, approximately 160 feet westerly of McCreery Avenue to CP Commercial Pedestrian Zoning District. P07-038
Ordinance No. 28107 adopted.
- (b) ORD NO. 28108 – Rezoning certain real property situated at the southeast corner of Zanker Road and River Oaks Drive to A(PD) Planned Development Zoning District. PDC06-038
Ordinance No. 28108 adopted.
- (c) ORD NO. 28109 – Rezoning certain real property situated on the east side of Radio Avenue, approximately 160 feet north of Lincoln Court to A(PD) Planned Development Zoning District. PDC05-122
Ordinance No. 28109 adopted.

2. CONSENT CALENDAR

2.3 Approval to amend an agreement with Sky Chefs, Inc. at the Airport.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute a first amendment to the lease agreement between the City of San José and Sky Chefs, Inc., to change the Base Rental for non-airline, off-Airport sales activity to 0% of gross receipts for the period of January 1, 2008 through December 31, 2008, and 2% thereafter. CEQA: Resolution Nos. 67380 and 71451, File No. PP07-155. (Airport)

Resolution No. 73980 adopted.

2.4 Approval to amend an agreement with San José Stage Company.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute a third amendment to the grant agreement with San José Stage Company, to:

(a) Extend the term of the agreement to an optional fourth year with a grant in an amount not to exceed \$69,977, increasing the total grant amount to \$284,105 for the four-year term, and

(b) Make other amendments necessary for the administration of the grant.

CEQA: Not a Project. (Economic Development)

Deferred to 9/25/07 per Administration.

2.5 Acceptance of the 2007 First and Second Quarter Arena Ticket Distribution Program Reports.

Recommendation: Acceptance of the 1Q2007 and 2Q2007 Arena Ticket Distribution Program Reports as submitted by the San José Arena Authority. CEQA: Not a Project. (Economic Development)

Report Accepted.

2.6 Approval to submit the 2006-2007 Urban Runoff Management Plan Annual Report.

Recommendation: Adoption of a resolution authorizing the submittal of the 2006-2007 Urban Runoff Management Plan Annual Report and certification to the Regional Water Quality Control Board in conformance with the City's Municipal Separate Storm Sewer System National Pollutant Discharge Elimination System permit requirements, pursuant to the Federal Clean Water Act. CEQA: Not a Project. (Environmental Services)

Resolution No. 73981 adopted.

2.7 Approval to add Domestic Partners under certain circumstances to the Federated City Employees' Retirement System.

Recommendation: Approval of an ordinance amending Section 19 of Ordinance No. 27521 to add domestic partners under certain circumstances to the Federated City Employees' Retirement System. CEQA: Not a Project. (Federated City Employees' Retirement Board)

Ordinance No. 28110 passed for publication.

2. CONSENT CALENDAR

2.8 Approval to sell City-owned property located on Corte De Rosa and Camden Avenue.

Recommendation:

- (a) Adoption of a resolution:
 - (1) Declaring the vacant 3.6 acres of City-owned property on Corte De Rosa and Camden Avenue as surplus to the needs of the City;
 - (2) Approving the sale agreement with an adjacent property owner, Masnaghetti Family Living Trust 2002, in the amount of \$2,400,000; and
 - (3) Delegating authority to the Director for Public Works to execute all documents necessary to complete the transfer of the property.

Resolution No. 73982 adopted.

- (b) Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund:

- (1) Increase the Economic Uncertainty Reserve by \$2,400,000; and
 - (2) Increase the estimate for Other Revenue by \$2,400,000.

CEQA: Not a Project. Council District 10. (Public Works/City Manager's Office)

Deferred to 10/23/07 per Administration.

2.9 Approval of the Seventrees Branch Library and Solari Park Community Center Joint Facility Master Plan Project.

Recommendation:

- (a) Approval of the Seventrees Branch Library and Solari Park Community Center Joint Facility Master Plan Project.

Approved.

- (b) Adoption of a resolution incorporating environmental mitigation measures as set forth in the Mitigation Monitoring and Reporting Program for the Project.

CEQA: Mitigated Negative Declaration, File No. PP06-175. Council District 7. (Public Works/Parks, Recreation and Neighborhood Services/Library)

Resolution No. 73983 adopted.

2.10 Approval to amend an agreement for consultant services for the Mayfair Community Center Project.

Recommendation: Approval of the second amendment to the agreement with Field Paoli, Inc. for consultant services for the Mayfair Community Center Project, accepting already completed additional design work and increasing the amount of compensation by \$80,170, for a total amount not to exceed \$1,645,325. CEQA: Mitigated Negative Declaration, PP06-024. Council District 5. SNI: Mayfair. (Public Works)

Approved.

2. CONSENT CALENDAR

2.11 Approval of actions related to City Auditor recruitment and Interim City Auditor compensation.

Recommendation:

- (a) Appoint Steven Hendrickson as Interim City Auditor as an independent contractor at the hourly rate of \$140.
- (b) Authorize the City Clerk to execute an agreement between the City of San José and Mr. Hendrickson for services as Interim City Auditor.
- (c) Authorize the Mayor to retain a search firm for recruitment of a new City Auditor. (Mayor)

[Rules Committee referral 9/5/07 – Item A(1)(a)]

Approved, with the clarification that Mr. Hendrickson was appointed as Interim City Auditor as a *temporary, unclassified employee*.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the Rules and Open Government Committee – August 8, 2007 Mayor Reed, Chair

- (a) City Council
 - (1) Review New Add Items to August 14, 2007 Agenda
The Committee approved the August 14, 2007 City Council Agenda with two additions.
 - (2) Review August 21, 2007 Draft Agenda
The Committee approved the August 21, 2007 Draft City Council Agenda with six additions.
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
 - (1) State
 - (a) AB 548 (Levine, et al), Solid Waste; Multifamily Dwellings.
The Committee approved the support position, if amended, of AB548. Heard By Council 8/14/07 – Item 3.17.
 - (b) AB 845 (Bass), Foster Youth: Transitional Housing.
No action was taken at this time.
 - (c) SB 275 (Cedillo), Health Care Facilities: Patient Transport.
Staff to go back to talk to the hospital representatives on the Blue Ribbon Commission and return to a future Rules and Open Government Committee with a response.

3.1 Report of the Rules and Open Government Committee – August 8, 2007 (Cont'd.)
Mayor Reed, Chair

(c) Legislative Update (Cont'd.)

(1) State (Cont'd.)

(d) SB 1020 (Padilla), Solid Waste: Diversion.

The Committee approved the support position. Heard By Council 8/14/07 – Item 3.18.

(2) Federal

There were none.

(d) Meeting Schedules

(1) Recommend Elected Officials attend a new Crisis Communication Class facilitated by the Governor's Office of Homeland Security on Monday, August 20, 2007.

(2) Approve a Priority Setting Session Follow-up Meeting with City Council for September 4, 2007, 9 am – 4 pm.

(3) Approve a Joint Study Session on Flood Management Issues with City Council and the Santa Clara Valley Water District Board of Directors for November 19, 2007, 1 – 4 pm.

The Committee approved the meeting schedules.

(e) The Public Record

The Committee noted and filed the Public Record and referred the issue of costs related to expanded background checks and fingerprinting for all senior programs.

(f) Appointments to Boards, Commissions and Committees

(1) Approve the amended City Council and Redevelopment Agency Committee Appointments.

The Committee approved the appointments with a one week turnaround to Council Heard By Council 8/14/07 – Item 9.1.

(g) Rules Committee Reviews, Recommendations and Approvals

(1) POW/MIA Flag Raising.

The Committee approved the POW/MIA Flag Raising. Heard By Council 8/28/07 – Item 3.7.

(2) Approve Mayor's Travel to Los Angeles, CA, for the U.S. Conference of Mayors on June 22-23, 2007 and Mayor's Travel to Sacramento, CA, for the Silicon Valley Leadership Group's 11th Annual Sacramento Advocacy Trip on April 25-26, 2007.

The Committee approved the travel request.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the Rules and Open Government Committee – August 8, 2007 (Cont'd.) Mayor Reed, Chair

- (g) Rules Committee Reviews, Recommendations and Approvals (Cont'd.)
 - (3) League of California Cities Voting and Alternate Voting Delegates at the Annual Business Meeting.
The Committee approved the proposed voting and alternate voting delegates. Heard By Council 8/14/07 – Item 3.19.
 - (4) Public/Private Partnership Update.
The Committee approved this item to be agendized on the September 11, 2007 City Council Agenda.
- (h) Review of Council Committee Agendas
 - (1) Community and Economic Development Committee
 - (2) Neighborhood Services and Education Committee
There were none.
 - (3) Transportation and Environment Committee
 - (a) Add item entitled, “Amendment to the Airport Design Build Contract with Hensel Phelps Construction Company to increase the size of the Consolidated Rental Car Garage” to the August 27, 2007 agenda.
The Committee approved the addition.
 - (4) Public Safety, Finance and Strategic Support Committee
 - (a) Add item entitled, “Public and Educational Cable Access Transition Planning” to the September 20, 2007 agenda.
The Committee approved the addition.
- (i) Open Government Initiatives
There were none.
- (j) Open Forum
None were presented.
- (k) Adjournment
(Deferred from 8/28/07 – Item 3.1)
The meeting was adjourned at 3:42 p.m.

The Rules and Open Government Committee Report and the Actions of August 8, 2007 were accepted.

3. STRATEGIC SUPPORT SERVICES

3.2 Joint Meeting of the Rules and Open Government Committee and the Sunshine Reform Task Force – June 27, 2007

Mayor Reed, Chair

- (a) Call to Order.
Mayor Reed called the meeting to order at 8: 35 a.m.
- (b) Overview of the Day/Review Expected Outcomes.
Mayor Reed recommended that public meetings be held in September.
- (c) Discussion and Recommendations on Section 4 – Public Information (resume discussion from 6/6/07 Rules & Open Government Committee meeting).
The Committee approved the Task Force recommendations on Section 4.
- (d) Discussion and Recommendation on Section 3 – Closed Session.
The Committee agreed to move Section 2 on to the Council Agenda in August for consideration.
- (e) Discussion and Recommendations on Bodies Subject to the Sunshine Ordinance – Policy Body, Ancillary Body, Non-Governmental Body (Section 2 – Public Meetings).
The Committee agreed to continue discussion of this section at the next Rules and Open Government Committee meeting in August.
- (f) Public Comments.
None were presented.
- (g) Continuation of Discussion.
(Deferred from 8/7/07 – Item 3.6, et al and 8/28/07 – Item 3.2)

The Joint Meeting of the Rules and Open Government Committee and the Sunshine Reform Task Force and the Actions of June 27, 2007 were accepted.

3.3 Report of the Rules and Open Government Committee – August 15, 2007

Mayor Reed, Chair

- (a) City Council
 - (1) Review August 21, 2007 City Council Agenda
The Committee approved the August 21, 2007 City Council Agenda with three additions.
 - (2) Review August 28, 2007 Draft City Council Agenda
The Committee approved the August 28, 2007 Draft City Council Agenda with six additions.
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting

3. STRATEGIC SUPPORT SERVICES

3.3 Report of the Rules and Open Government Committee – August 15, 2007 (Cont'd.) Mayor Reed, Chair

- (c) Legislative Update
 - (1) State
 - (a) SB275 (Cedillo), Health Care Facilities: Patient Transport
Deferred to 8/29/07
 - (b) SB2 (Cedillo), By Right Housing
The Committee approved this item with a one week turnaround for City Council approval. Heard By Council on 8/21/07.
 - (c) Acceptance of the August 8, 2007 State Legislative Bill Matrix
The Committee approved this item with a one week turnaround for City Council approval. Heard By Council on 8/21/07.
 - (2) Federal
There were none.
- (d) Meeting Schedules
 - (1) Setting a Hearing for December 2007 for General Plan Amendments
The Committee approved the meeting schedule.
- (e) The Public Record
There were none.
- (f) Appointments to Boards, Commissions and Committees
There were none.
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Approve use of Mayor/Council Travel Fund for Council Member Chu to participate in the League of California Cities' Annual Conference in Sacramento, California on September 5-7, 2007
The Committee approved the travel request.
 - (2) Amicus Brief/Closed Session Discussion
The Committee deferred this item to August 22, 2007.

3. STRATEGIC SUPPORT SERVICES

3.3 Report of the Rules and Open Government Committee – August 15, 2007 (Cont'd.) Mayor Reed, Chair

- (h) Review of Additions to Council Committee Agendas
 - (1) Community and Economic Development Committee
 - (a) Add item entitled, “Approve the Process Report and Timeline Update for Adoption of the 2007 California Building Standards, CCR Title 24, Parts 2-6, 8-10, and 12 to the September 24, 2007 agenda.
 - (b) Add item entitled, “Assessing Performance: An Analytical Framework for the San José McEnery Convention Center” to the October 22, 2007 agenda.
 - (c) Add item entitled, “The 2005-06 and 2006-07 Annual Performance Audit of Team San José” to the November 26, 2007 agenda.

The Committee approved the work plan as amended.

- (2) Neighborhood Services and Education Committee
 - (a) Add items entitled, “Grants Quarterly Status Report” to the September 13, 2007, November 8, 2007, February 14, 2008 and May 8, 2008 agendas.

The Committee approved the work plan as amended.

- (i) Open Government Initiatives
There were none.
- (j) Open Forum
None were presented.
- (k) Adjournment
The meeting was adjourned at 3:23 p.m.

The Rules and Open Government Committee Report and the Actions of August 15, 2007 were accepted.

3.4 Report of the Public Safety, Finance and Strategic Support Committee Councilmember Nguyen, Chair No Report.

3. STRATEGIC SUPPORT SERVICES

3.5 Adoption of a City Council Expenditure and Reimbursement Policy.

Recommendation: Adoption of a resolution approving a City Council Expenditure and Reimbursement Policy. (City Attorney/City Clerk/Finance)

[Rules Committee referral 6/20/07 – Item G(1)]

(Deferred from 8/7/07 – Item 3.8, et al and 8/28/07 – Item 3.4)

The Staff recommendations were approved, as amended, with input and Staff direction to return the policy for Council approval. In addition, Staff was directed to return within a realistic timeline with a proposal to phase out Officeholder Campaign Accounts.

3.6 Presentation of statewide ethics issues in response to Reed Reform #26.

Recommendation: Presentation of statewide ethics issues in response to Reed Reform #26, “Hold regular public hearings on ethical issues around the state so we can learn from our mistakes and the mistakes of others”. (City Attorney)

(Deferred from 8/28/07 – Item 3.6)

Staff Presentation was heard. No Council Action taken.

3.7 Approval of revised Travel Policy.

Recommendation: Adoption of a resolution approving a revised City Council Policy No. 9-5, “Travel by Elected and Appointed City Officials”. (City Attorney/City Clerk)

Deferred to 9/18/07 per City Clerk.

3.8 SB275 (Cedillo) Healthcare Facilities: Patient Transport.

Recommendation: As recommended by the Rules and Open Government Committee on August 29, 2007, approval of a support position, if amended, for SB275 (Cedillo), which prohibits hospitals from transporting patients to locations other than their residence without the patient’s consent. (Housing)

[Rules Committee referral 8/29/07 – Item C(1)(b)]

Position of support approved.

3.9 SB184 (Alquist and Correa) Transportation Projects.

Recommendation: As recommended by the Rules and Open Government Committee on August 29, 2007, approval of a support position for SB184 (Alquist and Correa) relating to the elimination of a 12-month time limit on state reimbursements to local transportation agencies that spend their own funds to advance state transportation projects. (Transportation)

[Rules Committee referral 8/29/07 – Item C(1)(c)]

Position of support approved.

3. STRATEGIC SUPPORT SERVICES

3.10 Approval of fiscal actions to rebudget funds to 2007-2008 to complete projects.

Recommendation:

- (a) Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #1:

- (1) Increase the Beginning Fund Balance by \$165,000;
- (2) Increase the Calabazas Park Improvements appropriation to the Parks, Recreation and Neighborhood Services Department by \$39,000; and
- (3) Increase the TRAIL: Saratoga/San Tomas Aquino Creek Reach 6 appropriation to the Parks, Recreation and Neighborhood Services Department by \$126,000.

Ordinance No. 28111 adopted.

Resolution No. 73984 adopted.

- (b) Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #4:

- (1) Increase the Beginning Fund Balance by \$41,000; and
- (2) Increase the TRAIL: Lower Guadalupe River Interim Improvements appropriation to the Parks, Recreation and Neighborhood Services Department by \$41,000.

Ordinance No. 28112 adopted.

Resolution No. 73985 adopted.

- (c) Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction and Conveyance Tax Fund: City-wide Parks Purposes:

- (1) Increase the Beginning Fund Balance by \$45,000; and
- (2) Increase the Columbus Park Horseshoe Court appropriation to the Parks, Recreation and Neighborhood Services Department by \$45,000.

Ordinance No. 28113 adopted.

Resolution No. 73986 adopted.

- (d) Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Parks and Recreation Bond Projects Fund:

- (1) Increase the Beginning Fund Balance by \$846,000;
- (2) Increase the Happy Hollow Park and Zoo Renovation and Improvements appropriation to the Parks, Recreation and Neighborhood Services Department by \$18,000; and
- (3) Increase the TRAIL: Los Gatos Reach IV appropriation to the Parks, Recreation and Neighborhood Services Department by \$828,000.

Ordinance No. 28114 adopted.

Resolution No. 73987 adopted.

(Continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.10 Approval of fiscal actions to rebudget funds to 2007-2008 to complete projects (Cont'd.)

- (e) Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Services for Redevelopment Capital Projects Fund:

- (1) Increase the Beginning Fund Balance by \$2,374,627; and
- (2) Increase the Mayfair Community Center appropriation to the Public Works Department by \$2,374,627.

CEQA: Not a Project. (City Manager's Office)

Ordinance No. 28115 adopted.

Resolution No. 73988 adopted.

3.11 Approval of actions related to History San José.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute the third amendment to the operations agreement to advance the second quarter payment for the period of October through December 2007 in the amount of \$143,705.75. CEQA: Not a Project. (City Manager's Office)

Resolution No. 73989 adopted.

3.12 Approval of actions related to revisions of Council Policies 2-4 and 9-9.

Recommendation:

- (a) Adoption of a resolution approving a revised Council Policy 2-4 for Council Office Space Acquisition and Modification.

Resolution No. 73990 adopted.

- (b) Adoption of a resolution approving a revised Council Policy 9-9 for Smoking in Any Building Owned, Leased, or Occupied by the City.

CEQA: Not a Project. (General Services)

Resolution No. 73991 adopted.

3.13 Approval of agreements related to the Employee Assistance Plan.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute Employee Assistance Plan and Critical Incident Stress Debriefing service agreements with Managed Health Network for the period of October 1, 2007 through June 30, 2011. CEQA: Not a Project. (Human Resources)

Resolution No. 73992 adopted.

3. STRATEGIC SUPPORT SERVICES

3.14 SB732 (Steinberg) – Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection and Bond Act of 2006.

Recommendation: As recommended by the Rules and Open Government Committee on September 5, 2007, adopt an oppose position to SB732 (Steinberg) – Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection and Bond Act of 2006, and recommend that it be made a two-year bill to allow additional time to resolve fundamental problems associated with the current proposal. (Planning, Building and Code Enforcement)

[Rules Committee referral 9/5/07 – Item c(1)(a)]

Position of oppose approved.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee – August 27, 2007 Councilmember Pyle, Chair

- (a) Review of Committee Work Plan (Committee Members)
Staff will work with Committee members to identify dates to bring forward a second October meeting and a special meeting time for the Berryessa Flea Market item.
- (b) Downtown Retail/Office Business Strategy (RDA)
The Committee accepted the Staff Report.
- (c) “Small Wonders” Work Plan to Enhance the Public Realm and Pedestrian Experience Downtown and Advance the 1st ACT Vision (OED/RDA)
The Committee accepted the Staff Report. To be heard by Council on 10/2/07.
- (d) Economic Indictors (OED)
The Committee accepted the Staff Report.
- (e) Status Report for Secondary Units Pilot Program (Housing)
Deferred.
- (f) Proposition 1C Housing and Emergency Shelter Trust Fund (Housing)
Deferred.
- (g) Report on Key Legislative Items (CMO)
The Committee accepted the Staff Report.
- (h) Arts Stabilization Loan Fund (OED)
**The Committee accepted the Staff Report.
See Item 4.2 For Council Action To Be Taken.**

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee – August 27, 2007 Councilmember Pyle, Chair (Cont'd.)

- (i) Status Report on Proposed Soccer Stadium (OED)

The Committee accepted the Staff Report.

- (j) Oral Petitions

None were presented.

- (k) Adjournment

The meeting was adjourned at 4:22 p.m.

The Community & Economic Development Committee and the Actions of August 27, 2007, were accepted.

4.2 Approval of actions related to the Arts Stabilization Loan Fund.

Recommendation: Approval of the recommendations of the Arts Commission regarding the Arts Stabilization Loan Fund, as modified by the Offices of Economic Development and Cultural Affairs, and direct the City Manager to implement the revised Arts Commission recommendations. CEQA: Not a Project. (Economic Development) [Community and Economic Development Committee referral 8/27/07 – Item (h)]

Deferred to 9/18/07 per Administration.

4.3 Approval of two new chapters to the Residential Design Guidelines.

Recommendation: Acceptance of the following two new chapters to add to the Residential Design Guidelines:

- (a) Chapter 25A – Transit-Oriented development guidelines; and,
(b) Chapter 26 – Mid and High-rise design guidelines.

CEQA: Not a Project. Director of Planning, Building and Code Enforcement and Planning Commission recommends approval (6-0-1). (Planning, Building and Code Enforcement)

Accepted.

4.4 Approval of the Envision San José 2040 General Plan Task Force Attendance and Membership Replacement Policies.

Recommendation: Approval of the framework for Task Force membership for the proposed Envision San José 2040 General Plan Task Force. CEQA: Not a Project. (Planning, Building and Code Enforcement)

Approved, with Staff directed to strike affiliations as shown on the Task Force Membership roster.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.5 Public Hearing on the vacation of a portion of Paula Street between Race Street and Meridian Way.

Recommendation: Public Hearing and adoption of a resolution to vacate a portion of Paula Street, between Race Street and Meridian Way at 1024, 1044 and 1050 Paula Street with reservation of a public service easement over the area proposed for vacation. CEQA: Exempt. Council District 6. (Public Works)

The Public Hearing was held.

Resolution No. 73993 adopted.

4.6 Public Hearing on the vacation of a portion of a Public Service Easement on Samaritan Drive.

Recommendation: Public Hearing and adoption of a resolution to vacate portions of a Public Service Easement behind the right of way line of Tract 7502 along Samaritan Drive and Clydelle Avenue at 2039 Samaritan Drive and a portion of Sidewalk Easement behind the right of way line of Tract 7502 along Samaritan Drive. CEQA: Mitigated Negative Declaration, File No. PDC05-036. Council District 9. (Public Works)

The Public Hearing was held.

Resolution No. 73994 adopted.

5. NEIGHBORHOOD SERVICES

5.1 Report of the Neighborhood Services and Education Committee Councilmember Chirco, Chair

No Report.

5.2 Report on bids and approval to take actions for the Happy Hollow Park & Zoo, Pedestrian Bridge and the Attractions Projects.

Recommendation:

(a) Report on bids and take appropriate action based on the evaluation of bids for the Happy Hollow Park & Zoo - Pedestrian Bridge Project.

(b) Report on bids and take appropriate action based on the evaluation of bids for the Happy Hollow Park & Zoo - Zoo and Attractions Project.

CEQA: Mitigated Negative Declaration, File No. PP05-142. (Public Works/Parks, Recreation and Neighborhood Services)

(Deferred from 8/28/07 – Item 5.3)

Dropped.

6. TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Transportation and Environment Committee – August 27, 2007 Councilmember Williams, Chair

- (a) Update Report on California High Speed Rail/Bay Area Rail Transit Master Plan (DOT)
The Committee accepted the Staff Report.
- (b) Report on the Implementation of an Environmental Management System to Improve the Environmental Efficiency of City Operations Pilot and Expansion to Other City Operations (ESD)
(Deferred from May)
The Committee accepted the Staff Report.
- (c) Update Report on Recycled Water Master Plan and City of San José/Santa Clara Valley District Collaboration Efforts and Funding for Recycled Water Treatment Infrastructure (ESD)
(Deferred from June)
Deferred to September.
- (d) Review of Current and Proposed Solar Energy Initiatives (ESD)
The Committee accepted the Staff Report.
- (e) Status Report on Las Plumas EcoPark Site Development (ESD)
Deferred to November.
- (f) Recycle Plus Transition Update (ESD)
The Committee accepted the Staff Report.
- (g) Progress Report on Strategies to Reduce Deferred Maintenance and City Infrastructure Backlog (CMO)
The Committee accepted the Staff Report.
- (h) Proposed Amendment to the Airport Design Build Contract for the Consolidated Rental Garage and Other Adjustments (Airport/PW)
Deferred to September.
- (i) Report on Key Legislative Issues (CMO)
The Committee accepted the Staff Report.
- (j) Oral Petitions
None were presented.
- (k) Adjournment
The meeting was adjourned at 10:55 a.m.

The Transportation and Environment Committee Report and the Actions of August 27, 2007 were accepted.

6. TRANSPORTATION & AVIATION SERVICES

6.2 Acceptance of the status report on the Parking Security/Parking Rates Pilot Program.

Recommendation: Acceptance of the status report on the implementation of the Enhanced Parking Security and Cleaning Plan, and the six-month pilot program on the \$5 rate at City parking garages after 10 p.m. on Thursday through Saturday that began July 1, 2007. CEQA: Not a Project. (Transportation)
(Deferred from 8/28/07 – Item 6.2)

Accepted.

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

8.1 Approval of an ordinance amending Title 16, Gaming Control, to allow certain nonprofit organization fundraisers.

Recommendation: Approval of an ordinance to add a new Chapter 16.50 to Title 16 of the San José Municipal Code, Gaming Control, to authorize nonprofit organization fundraisers by eligible nonprofit organizations, and amending various other sections of Title 16 to make technical and conforming changes. CEQA: Not a Project. (City Attorney's Office)

Ordinance No. 28116 passed for publication.

8.2 Approval of staff's response to the Civil Grand Jury's Report on Record Keeping at the Bureau of Fire Prevention.

Recommendation: Approval of staff's response to the 2006-2007 Santa Clara County Civil Grand Jury's report entitled "Record Keeping in Disarray at San José Bureau of Fire Prevention". CEQA: Not a Project. (Fire)

Approved.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board was convened at 4:12 p.m. to consider Item 9.1 in a Joint Session.

9.1 Approval of actions related to the Pilot Shopping Center Improvement Program.

Recommendation:

- (a) Adoption of a resolution by the City Council:
- (1) Approving the creation of a pilot program to improve the appearance of shopping centers outside of Redevelopment Areas to increase economic vitality, encourage job growth and generate additional sales tax revenue; and,
 - (2) Authorizing the City Manager to execute a Cooperation Agreement to allow City of San José General Funds to be used to compensate the San José Redevelopment Agency for staff time, design work, supplies and consultant services undertaken outside of Redevelopment Areas.

Resolution No. 73995 adopted.

- (b) Adoption of a resolution by the Redevelopment Agency Board authorizing the Executive Director to execute a Cooperation Agreement to allow City of San José General Funds to be used to compensate the Redevelopment Agency for staff time, design work, supplies and consultant services undertaken outside of Redevelopment Areas.

CEQA: Not a Project. Council Districts 7, 9 and 10. (City Manager's Office/Redevelopment Agency)

Redevelopment Agency Resolution No. 5780 adopted.

• Notice of City Engineer's Pending Decision on Final Maps

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9900	East side of Park Avenue, 100 feet north of Emory Street	6	Mary Frye	1 Lot / 2 Units	Single Family Attached	Approve

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9943	Kentwood Ave., Highway 85 and South DeAnza Blvd	1	Braddock & Logan Group III, L.P.	78 Lots / 57 Units	Multi- Family Attached
9944	Southwesterly side of Campbell Ave., 950 feet northwesterly of Newhall St.	6	Santa Clara Development	31 Lots / 28 Units	Single Family Detached
9949	South side of Shenado Pl., 500 feet east of Gerine Blossom Dr.	2	Shenado Place LLC	7 Lots / 6 Units	Single Family Detached

- **Notice of City Engineer's Award of Construction Projects**

None.

- **Open Forum**

- (1) **Robert Apgar shared personal views.**
- (2) **Stephen Hazel presented personal observations.**
- (3) **Armando Casadio complained that he still has not received a copy of a police report and declared that the Police Department is corrupt.**
- (4) **Mark Trout expressed religious points of view.**
- (5) **Jim Griffith urged the City Council to endorse Measure B (Library Bond).**

- **Adjournment**

The Council of the City of San José adjourned the afternoon session at 6:00 p.m.

10. GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

No General Plan Public Hearing at this time.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

(Heard by the City Council at 7:02 p.m.)

11.1 Public Hearings on Consent Calendar.

Recommendation:

- (a) Consideration of an ordinance rezoning the real property located on the west side of Dent Avenue, approximately 400 feet south of Branham Lane (4977 Dent Avenue) from the R-M Residential Zoning District to the A(PD) Planned Development Zoning District to allow 20 single-family attached residences on 0.50 gross acre site (Bryce Baker Trustee, Owner). CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommends approval (7-0-0).

PDC07-024 - District 9

Ordinance No. 28117 passed for publication.

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

11. PUBLIC HEARINGS

11.2 Rezoning the real property located on the south side of Olga Drive approximately 200 feet easterly of Saratoga Avenue.

Recommendation: Consideration of an ordinance rezoning the real property located on the south side of Olga Drive approximately 200 feet easterly of Saratoga Avenue (4170 Olga Drive) from CP Commercial Pedestrian Zoning District to A(PD) Planned Development Zoning District to allow up to five single-family detached residences on a 0.36 gross acre site (Noel Avenue LLC, Owner). SNI: Blackford. CEQA: Negative Declaration.

PDC06-112 – District 1

[Continued from 8/28/07 – Item 11.1(b)]

Continued to 9/25/07 per Administration.

11.3 Rezoning the real property located on the southwest corner of North 1st Street and Century Center

Recommendation: Consideration of an ordinance rezoning the real property located on the southwest corner of North 1st Street and Century Center (1733 N. 1st Street) from CO(PD) Commercial Office Planned Development, LI Light Industrial, and CG Commercial General Zoning Districts to A(PD) Planned Development Zoning District to allow up to 460 single-family attached residences and 20,000 square feet for retail commercial uses on a 2.4 gross acres site (James Schmidt Et Al, Owner). CEQA: Resolution No. 72768, and Addenda thereto. Director of Planning, Building and Code Enforcement and Planning Commission recommends approval (7-0-0).

PDC05-114 - District 3

Continued to 9/25/07 per Rules and Open Government Committee.

11.4 Rezoning the real property located at/on the northwest corner of Zanker Road and Tasman Drive.

Recommendation: Consideration of an ordinance rezoning the real property located at/on the northwest corner of Zanker Road and Tasman Drive (3811 Zanker Road) from IP Industrial Park Zoning District to A(PD) Planned Development Zoning District to allow up to 705 single-family and multi-family attached residences, 25,000 square foot retail space, and underground parking on a 10.01 gross acre site (Zanker Road Invs LLC, Owner). CEQA: Addendum to EIR.

PDC06-093 - District 4

Continued to 9/25/07 per Administration.

11. PUBLIC HEARINGS

11.5 Rezoning the real property located at/on the northwest side of Baypointe Parkway, approximately 370 feet northerly of Tasman Drive.

Recommendation: Consideration of an ordinance rezoning the real property located at/on the northwest side of Baypointe Parkway, approximately 370 feet northerly of Tasman Drive (163 Baypointe Parkway) from the IP Industrial Park Zoning District to the A(PD) Planned Development Zoning District to allow up to 183 single-family attached residences on a 3.16 gross acre site (First Real Estate, LLC, First Real Estate, LLC Wayne Sun, Owner; Ff Development Dan Milich, Developer). CEQA: Addendum to EIR.

PDC06-061 - District 4

Continued to 9/25/07 per Administration.

- **Open Forum**

- (1) **Roy Que-Heath spoke regarding AB221 Retirement Funds passed by the State last week.**

- **Adjournment**

The Council of the City of San José was adjourned at 7:23 p.m. in memory of Robert Gordon Llewellyn for exemplary service to the community and outstanding accomplishments; Robert touched the lives of many and will be deeply missed by his family, friends, and the community.

8. JOINT REDEVELOPMENT AGENCY ITEM

The Joint Redevelopment Agency Board convened at 7:14 p.m. to consider Item 8.2 in a Joint Session.

8.1 Direction to the Executive Director and City Manager to enter into agreements to enable Cirque du Soleil to occupy the former San Jose Water Company property located at Santa Clara Street and Delmas Avenue, and related fiscal actions.

Recommendation:

- (a) Adoption of a resolution by the Agency Board:
 - (1) Directing the Executive Director to negotiate agreements necessary to enable Cirque du Soleil to occupy the former San Jose Water Company property located on Santa Clara Street and Delmas Avenue, including property use agreements with Adobe Systems as owners of the property and property use agreements with Cirque du Soleil, and utility relocation agreements with PG&E, AT&T, and Comcast Cable.
 - (2) Adding \$400,000 to the 1st Act Small Wonders Program new project line in the Merged Redevelopment Area, and amending the FY 2007-2008 Agency appropriations resolution.
- (b) Adoption of a resolution by the City Council directing the City Manager to negotiate agreements necessary to enable Cirque du Soleil to occupy the former San Jose Water Company property, including the waiver of parking fees for Adobe Systems at the Market Street Garage.

CEQA: Not a Project. The negotiated agreements and Planned Development Permit will undergo environmental review prior to any Agency or City approval actions. **MERGED]** (Deferred 8/28/07, Item 8.2)

Dropped per Orders of the Day.

8.2 Public Hearing on the Agency's FY 2007-2008 Capital Budget and 2008-2012 Capital Improvement Program.

Recommendation: Joint Public Hearing on the Redevelopment Agency's Proposed FY 2007-2008 Capital Budget and 2008-2012 Capital Improvement Program.

Heard in the Evening.

The Public Hearing was held.

Speaking to the Redevelopment Agency's Proposed FY 2007-2008 Capital Budget and 2008-2012 Capital Improvement Program were Father Robert Brocato, Judy Purrington, Ash Kalra and Tim Kirby.

No City Council/RDA action was taken at this time.

The Council of the City of San José and Redevelopment Agency Board adjourned at 7:21 p.m.